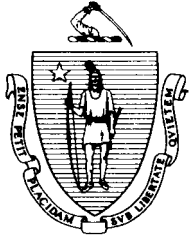


THE COMMONWEALTH OF MASSACHUSETTS
ALCOHOLIC BEVERAGES CONTROL COMMISSION
239 CAUSEWAY STREET, SUITE 200
Telephone: (617) 727-3040
Fax: (617) 727-1258

THE BLUE BOOK

March, 2004



Timothy P. Cahill
Treasurer and Receiver General

Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
Telephone: (617) 727-3040
Fax: (617) 727-1258

Eddie J. Jenkins
Chairman

A MESSAGE FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

The ABCC has compiled this quick reference to assist local licensing authorities in processing applications and to answer questions you may have concerning the licensing procedure governing alcoholic beverage establishments in your city or town.

This guide is meant as a permanent addition to the local licensing authority's reference shelf. We hope it will prove valuable in resolving the issues that come before you.

A careful reading of these instructions and following the procedures as outlined will lead to a complete application package and therefore faster license approval at the ABCC.

1. ALL CERTIFIED CHECKS OR MONEY ORDERS MUST BE MADE PAYABLE TO "COMMONWEALTH OF MASSACHUSETTS" or "ALCOHOLIC BEVERAGES CONTROL COMMISSION".
2. Form 983 (Application for Transfer of Liquor License) and Form 997 (Petition for Change) are available from legal stationary stores or this web site.
3. Upon receipt of the paperwork, final action will be taken by the ABCC, subject to any outstanding state taxes as researched by the Department of Revenue (DOR).

We wish you success in your licensing activities as we work together "to serve the public need... in such a manner as to protect the public good."

Sincerely,

Eddie Jenkins
Chairman

Suzanne Iannella
Commissioner

Robert Cronin
Commissioner

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KEY DATES AND TIMELINES

LEGAL DEADLINE REQUIREMENTS FOR FILINGS TO THE ABCC

Local Licensing Authorities (LLA) are required by law to submit the following material to the ABCC by the deadline indicated as stipulated by the relevant section of the Liquor Control Act (Chapter 138).

NOVEMBER 1-30	Renewal Forms are available at the Local Licensing Authorities (s16A).
NOVEMBER 30	Completed Renewal Forms due at Local Licensing Authorities.
DECEMBER 31	Completed Renewal Forms must be received at ABCC on or before this date.
FEBRUARY 15	Annual Report due (s10A).
MARCH 1	Seasonal Renewal Forms available at Local Licensing Authorities. Must be received at ABCC no later than April 30.
MARCH 1	Estimate of seasonal population as of July 10 taken by Local Licensing Authority and sent to ABCC by April 1 (s17).
APRIL 1	Annual Reports from clubs relative officers and compensation due (s1).

LICENSING PROCEDURE

At the local level the following sequence of events and time limitations must be followed whenever an Application for the sale of alcoholic beverages is initiated or changed (M.G.L. Ch. 138, s15A, s16B).

1. Completed application filed with local licensing authority and date and hour of filing noted.
2. Advertisement, if necessary, must be published within ten (10) days of filing.
3. Hearings, when required, shall not be held sooner than ten (10) days after the advertising.
4. Applications must be acted on within thirty (30) days after filing.
5. If approved by local licensing authority, applications shall be forwarded to ABCC no later than three (3) days following such approval.
6. The license will be issued by the Local Licensing Authority within seven (7) days of receipt of approval by the ABCC.

STATEMENT OF REASONS AND APPEAL PROCESS

Massachusetts General Laws Chapter 138, section 23 requires that whenever a Local Licensing Authority (LLA) denies an application or modifies, suspends, revokes or cancels a license, the LLA submits a written Statement of Reasons to the licensee and the ABCC and a Right to Appeal notice to the licensee.

The Right to Appeal notice tells the licensee that he/she may appeal this decision to the ABCC, 239 Causeway Street, Suite 200, Boston, MA 02114 within five (5) days of receipt of Statement of Reasons as provided for in Chapter 138, Section 67, Massachusetts General laws.

**DOCUMENTS NECESSARY FOR ABCC
TO PROCESS LIQUOR LICENSE TRANSACTIONS**

NEW LICENSE, TRANSFER OF LICENSE

- A. Form 43 – the original and two copies of the completed Form 43 are needed. Keep one copy at your office and send the original and one copy to the ABCC.
- B. Form 983 – needed if transfer of license.
- C. Five (5) page application form. Note: Every question must be answered. Very rarely is “Not Applicable” an appropriate and acceptable answer.
- D. \$200.00 check or money order made payable to **COMMONWEALTH OF MASSACHUSETTS AND/OR ALCOHOLIC BEVERAGES CONTROL COMMISSION**.
- E. Articles of Organization (if a corporation) as filed with the Massachusetts Secretary of State
- F. If the applicant is a partnership, a copy of the partnership must be included.
- G. If the applicant is a corporation, vote of the Board of Directors of the Corporation appointing a **MANAGER** must be included. **ALL MANAGERS MUST BE UNITED STATES CITIZENS, AND MUST BE AT LEAST 21 YEARS OF AGE. PROOF OF CITIZENSHIP MUST BE PROVIDED.**
- H. If the applicant is an LLC, all official documents must be submitted along with all parties of the LLC.
- I. ABCC FORM A. If a corporation, the manager must complete the form. If a partnership, each partner must complete the form. If an individual, the individual must complete the form.
- J. Must be advertised in local newspaper. The LLA must fill in on the Form 43 the date of the advertisement and the name of the publication.
- K. Must notify abutters by Certified Mail – needed if new license: For purposes of liquor license applications (Ch138, s 15A), an abutter is a person whose property directly touches the proposed premise – not someone across the street. A sample Affidavit of Notice of Mailing to Abutter and Others (see p. 15) has been included for use by LLA in fulfilling their statutory obligations relative to proper notice.
- L. Churches, synagogues, hospitals and public or private elementary or secondary schools located within 500 feet of the premises of a liquor-serving establishment must be notified by registered mail. In all cases, whether the license is protested or not, the licensing authority must determine in writing after the hearing that the premises is not detrimental to the educational and spiritual activities of such school or church, if approving the application. For more information see page 20.
- M. A copy of the blue prints or a hand drawn floor plan (drawn to scale) of the proposed new premises.
- N. If the applicant is leasing the premises, a copy of the lease must be included.
- O. Purchase and sale documents, if a transfer.
- P. Documents verifying sources of financing (i.e. loan papers, checking accounts, stock sales, etc.).

TRANSFER OR ISSUANCE OF STOCK, NEW OFFICERS/DIRECTORS

- A. Form 43.
- B. Form 983 – needed if transfer of stock.
- C. Five (5) page application.
- D. \$200.00 check or money order.
- E. Certificate of Change – needed for new officers/directors. (Form CD-53 from Corporation Division of Secretary of State).
- F. Vote of the Board of Directors authorizing the changes.
- G. If Transfer/Issuance of Stock, must be advertised in local newspaper.
- H. Proof of citizenship and residency requirements as found in Ch. 138, s15 and s26 and 204 CMR 2.01 (1).

CHANGE OF STOCKHOLDERS

- A. Form 43.
 - B. Form 983.
 - C. Five (5) page application.
 - D. \$200.00 check or money order.
 - E. Vote of the Board of Directors authorizing the changes.
 - F. Must be advertised in local newspaper.
-

CHANGE OF LOCATION/ ALTERED PREMISES

Alter is defined as any increase or decrease in the size or change in character of the licensed premises or changes in the entrance/exit locations.

- A. Form 43.
 - B. Form 997 – for change of location.
 - C. \$200.00 check or money order.
 - D. Vote of the Board of Directors (if a corporation) authorizing the changes.
 - E. Advertise in local newspaper.
 - F. Blue prints or hand drawn floor plan (drawn to scale) of the new location or alterations.
 - G. Notify Church, School or Hospital (per Ch. 138, s15A and s16C). For more information, see page 20.
 - H. Notify abutters by certified mail.
-

PLEDGE OF LICENSE/STOCK

- A. Form 43.
 - B. Form 997
 - C. \$200.00 check or money order.
 - D. Vote of the Board of Directors (if a corporation) authorizing the pledge.
 - E. Copy of loan documents (promissory note).
 - F. Copy of Pledge Agreement.
-

CHANGE OF CORPORATION NAME

- A. Form 43 – under remarks please type “change of corporate name only”.
 - B. Form 997.
 - C. \$200.00 check or money order.
 - D. Amended Articles of Organization filed with the Secretary of State (**MUST HAVE REGISTRATION NUMBERS**)
 - E. Vote of the Board of Directors authorizing the change.
-

CHANGE OF D/B/A (doing business as)

- A. Form 43 – under remarks put “change of d/b/a only”.
 - B. Form 997
 - C. Copy of the Business Certificate filed with Town/City Clerk (Ch. 110, s5).
 - D. Vote of the Board of Directors, if a corporation.
-

CONVERSIONS OF SEASONAL LICENSES TO ANNUALS (Ch 138, s17A and 17B as amended by Ch. 491, Acts of 1984).

This section pertains ONLY TO THE TOWN/CITY WHICH HAS ADOPTED THIS STATUTE.

- A. Application is treated as a new license. Articles of Organization or Form A is not required.
- B. **Only one s12 and one s15 license may be converted per calendar year.**

CHANGE OF MANAGER

BE SURE APPLICANT COMPLETES AND SIGNS LICENSEE PERSONAL INFORMATION SHEET (FORM A).

- A. Form 43.
- B. Form 997.
- C. \$200.00 check or money order.
- D. Vote of the Board of Directors.
- E. Licensee Personal Information Sheet (Form A). Note: Question 13 must be answered “yes” or “no.” If answered “yes”, appearances must be disclosed regardless of the deposition of the case. The applicant must provide copy of CORI report verifying response.

CHANGE OF HOURS

- A. Form 43 – with approved hours
- B. If a Corporation, include the vote of the Board of Directors.

CHANGE OF LICENSE TYPE

This transaction is changing a s 12 license from one type to another (i.e. restaurant to hotel). There are 5 typed of licenses under s 12: 1) restaurant 2) hotel 3) club 4) tavern 5) general on premises.

- A. Form 43.
- B. Form 997.
- C. \$200.00 check or money order.
- D. If a Corporation, include the vote of the Board of Directors.
- E. Advertisement in the local newspaper. **NOTE: CHANGING A 6-DAY LICENSE TO A 7-DAY LICENSE IS AN ORIGINAL/NEW LICENSE APPLICATION. IT IS NOT A CHANGE OF LICENSE TYPE.**

Cordials and liqueurs permit (481, Acts of 1993).

This section pertains ONLY TO A TOWN/CITY THAT HAS ADOPTED THIS STATUTE.

- A. Form 42 – indicate approval under remarks.
- B. Form 997.
- C. If a corporation, include the vote of the Board of Directors.
- D. Advertisement in local newspaper.
- E. Notify abutters by certified mail.

THE COMMONWEALTH OF MASSACHUSETTS
ALCOHOLIC BEVERAGES CONTROL COMMISSION

FORM 43

License Number

City/Town

Date

Type of Transaction (Please check all relevant transactions)

☐ New License

☐ New Officer/Director

☐ Pledge of License

☐ Transfer of License

☐ Change of Location

☐ Pledge of Stock

☐ Change of Manager

☐ Alter Premises

☐ Other _____

Name of licensee

FID of Licensee

D/B/A

Manager

Address: Number

Street

Zip Code

Annual or Seasonal

Category: All Alcohol, Wine & Malt

Type: Restaurant, Club, Package Store,
Inn, General on Premise, Etc.

Description of Licensed Premises:

Application was filed: _____
Date & time

Advertised: _____
Date & Publication

Person to contact regarding this transaction:

Name: _____

Address: _____

Phone #: _____

Remarks:

The Local Licensing Authorities

By: _____

Alcoholic Beverages Control Commission

Ellen Moriarty
Executive Director

Remarks: _____

INSTRUCTIONS FOR FORM 43

- 1) LICENSE NUMBER assigned by the ABCC
- 2) CITY/TOWN, name of city or town
- 3) DATE GRANTED, date granted by local board
- 4) TYPE OF TRANSACTION, Each type of transaction being granted by local board must be checked off. Other refers to transactions like change in hours, dba change or cordials and liqueurs permit.
- 5) NAME OF LICENSEE is issued, exact name to appear on license.
- 6) FID if corporation, FEDERAL ID NUMBER
- 7) DOING BUSINESS AS name filed with town clerk
- 8) STREET ADDRESS of licensed premises
- 9) CLASS annual or seasonal
- 10) CATEGORY: All alcohol, wine and malt, wine only, malt only
- 11) TYPE: restaurant, club, package store, etc.
- 12) Complete description of premises where alcoholic beverages will be consumed
- 13) Date and time applicant filed with city/town
- 14) Date advertised, name of publication
- 15) ABUTTERS NOTIFIED: Indicate compliance if transaction requires formal notification
- 16) CONTACT PERSON: Used by ABCC to contact applicant or applicant's representative
- 17) REMARKS: Room for the local board to enter any comments or restrictions about the license application being granted
- 18) SIGNATURE OF LOCAL BOARD
- 19) SIGNATURES, DATE APPROVED AND REMARKS OF ABCC

PETITION FOR LICENSE TRANSACTION

The Commonwealth of Massachusetts

_____20_____

____ CHANGE OF LOCATION

____ PLEDGE OF STOCK

____ PLEDGE OF LICENSE

____ CHANGE OF CORPORATE NAME

____ CHANGE OF D/B/A

____ CHANGE OF MANAGER

____ CHANGE OF LICENSE TYPE

____ CORDIALS AND LIQUEURS PERMIT

To the

Licensing Board for the

The undersigned respectfully petition for

Signed

Title

Form 997

<p style="text-align: center;">FORM A LICENSEE PERSONAL INFORMATION SHEET</p>

THIS FORM MUST BE COMPLETED FOR EACH:

- ___ **A.** **NEW LICENSE APPLICANT**
- ___ **B.** **APPOINTMENT OR CHANGE OF MANAGER IN A CORPORATION**
- ___ **C.** **TRANSFER OF LICENSE (RETAIL ONLY-SEC.12 & SEC.15)**

(Please check which transaction is the subject of an application accompanying this Form A.)

PLEASE TYPE OR PRINT ALL INFORMATION

**ALL QUESTIONS MUST BE ANSWERED AND TELEPHONE NUMBERS PROVIDED OR
APPLICATION WILL NOT BE ACCEPTED**

1. LICENSEE NAME: _____
(NAME AS IT WILL APPEAR ON THE LICENSE)
2. NAME OF (PROPOSED) MANAGER: _____
3. SOCIAL SECURITY NUMBER: _____
4. HOME (STREET) ADDRESS: _____
5. AREA CODE AND TELEPHONE NUMBER (S): (give both, your home telephone and a number at which you can be reached during the day).
DAY TIME# _____ HOME# _____
6. PLACE OF BIRTH: _____ 7. DATE OF BIRTH _____
8. REGISTERED VOTER: _____ YES _____ NO
9. ARE YOU A U.S. CITIZEN: _____ YES _____ NO
10. COURT AND DATE OF NATURALIZATION: _____
(Submit proof of citizenship and/or naturalization)
11. FATHER'S NAME: _____ 12. MOTHER'S MAIDEN NAME: _____
13. IDENTIFY YOUR CRIMINAL RECORD (Massachusetts, Military, any other State or Federal):
ANY OTHER ARREST OR APPEARANCES IN CRIMINAL COURT CHARGED WITH A CRIMINAL
OFFENSE REGARDLESS OF FINAL DISPOSITION:
_____ YES _____ NO **(MUST CHECK EITHER YES OR NO)**
- IF YES, PLEASE DESCRIBE OFFENSE (S) SPECIFIC CHARGE AND DISPOSITION (FINE,
PENALTY, ETC.)**

14. DESCRIBE YOUR PRIOR EXPERIENCE IN THE LIQUOR INDUSTRY:

15. DESCRIBE YOUR FINANCIAL INTEREST, DIRECT OR INDIRECT, IN ANY OTHER LIQUOR LICENSE, PERMIT OR CERTIFICATE:

16. EMPLOYMENT FOR THE LAST TEN YEARS (Dates, Position, Employer, Address):

17. HOURS PER WEEK TO BE SPENT ON THE LICENSED PREMISES: _____

18. I HEARBY SWEAR, UNDER THE PAINS AND PENALTIES OF PERJURY, THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

BY: _____
PROPOSED MANAGER SIGNATURE

DATE

LICENSING BOARD FOR THE

Date _____, 20____

To the Licensing Board
For the _____

I, _____ hereby certify that the following is a true list of the persons shown upon the Assessor's most recent valuation list as the owners of the property abutting the proposed location for an alcoholic beverages license at _____.

And that the following schools, churches or hospitals are located within the radius of five hundred (500) feet from said proposed location:

If there are none, please so state _____

I also certify that the notice of this application/petition concerning an alcoholic beverages license was given to the above by mailing to each of them within three days after publication of same, a copy of the advertisement is attached below. Also attached are the registered receipts/return registered receipts bearing signatures of persons receiving said notice.

Signed and subscribed to under penalties of perjuries this _____ day
of _____, 20_____.

Printed: _____
Written: _____

ATTACH ADVERTISEMENT
AND RECEIPTS HERE

Notary Public: _____
My Commission expires _____

MOST COMMON REASONS APPLICATIONS ARE **DISAPPROVED OR
RETURNED WITHOUT ACTION** BY COMMISSION

1. Taxes owed to Commonwealth.
2. Manger not a citizen.
3. Directors not citizens or residents of Massachusetts as required by s12 and s15.
4. Investigator unable to obtain necessary information to complete report.
5. Quota full.
6. No check submitted.
7. Forms not complete.
8. Supplemental information not provided.

FREQUENTLY ASKED QUESTIONS

TYPES OF LICENSES

Massachusetts Law allows local licensing authorities to grant three (3) classifications of licenses: **Section 12 (On-Premise)**, **Section 14 (Special)** and **Section 15 (Off-Premise)**. A section 12 license may not be granted to anyone convicted of a violation of federal or state narcotics laws. A Section 15 license may not be granted to anyone convicted of a felony. An applicant for a liquor license must be at 21-years-old. Anyone selling, serving or delivering beverages must be at least 18-years-old.

Section 12 has five (5) license types: These are hotel, restaurant, club, tavern and general on premise. A hotel, restaurant or a tavern which sells food to the public must first be issued an Innholder/Common Victualler license under the provisions of M.G.L. Chapter 140.

Club license is issued to a nonprofit corporation or association for sales of alcoholic beverages to members and their guests (if approved by local licensing authority).

Tavern license is issued to an establishment where alcoholic beverages may be sold, served to, and drunk by patrons in plain view of other patrons, all entrances to which shall open directly from a public way. Food may or may not be sold.

General On Premise authorizes the sale of alcoholic beverages without food.

Restaurant license authorizes the sale of alcoholic beverages by an establishment licensed as a common victualler that has the equipment and capacity for serving food.

Hotel license is issued by an establishment that is licensed as an innholder and has the equipment and has the capacity for serving food.

Section 14 (Special) licenses are issued by local licensing authorities and shall not be issued to any person(s), association, partnership or corporation already issued or in the process of being issued a license to sell alcoholic beverages as approved by the Commission. Special licenses cannot cover any portion of a currently-licensed premise.

Section 15 is called a “package store license” which may be issued for sale of either all-alcoholic or wine and malt beverages for off-premise consumption. IT IS IMPORTANT TO NOTE THAT MASSACHUSETTS LAW STATES “A PERSON, FIRM, CORPORATION, ASSOCIATION, OR OTHER COMBINATION OF PERSONS, DIRECTLY, OR INDIRECTLY, OR THROUGH ANY AGENT, EMPLOYEE STOCKHOLDER, OFFICER OR OTHER PERSON OR ANY SUBSIDIARY WHATSOEVER, **SHALL BE GRANTED IN THE AGGREGATE NO MORE THAN THREE SUCH LICENSES IN THE COMMONWEALTH, OR BE GRANTED MORE THAN ONE SUCH LICENSE IN A TOWN OR TWO IN A CITY.**”

HOURS OF OPERATION

HOTELS, RESTAURANTS, CLUBS TAVERNS AND GENERAL ON PREMISES: The local licensing authority shall set the hours of operation for any on-premise (Section 12) establishment. Once the operating hours are granted to any licensee, a change in these hours can be made only after a public hearing has been held.

SECULAR DAYS: Sales shall not be barred between the hours of 11 a.m. – 11 p.m. for any on-premise license. No sale may be made between the hours of 2 a.m. – 8 a.m. Taverns may serve between the hours of 1 a.m. – 8a.m.

SUNDAYS: Taverns may not serve on Sundays. For all other on-premise license holders, sales shall not be made between the hours of 1 a.m. – 12 noon unless the local licensing authority grants a 2 a.m. closing time (Ch. 138, s33A) or a 11 a.m. opening time (Ch. 138, s 33B).

PACKAGE STORES: may make sales between 8 a.m. – 11 p.m. or between 8 a.m. – 11:30 p.m. on the day immediately before a legal holiday. Sunday openings are not permitted except in communities located within ten miles of the northern border of the Commonwealth with either New Hampshire or Vermont, subject to approval of the local licensing authority. Local option allows the closing of package stores during polling hours on Election Day.

HOLIDAY OPERATING HOURS

SECTION 12 LICENSES – HOTEL, RESTAURANTS, CLUBS TAVERNS AND GENERAL ON PREMISE:

- A. Suffolk County (Boston, Chelsea and Revere): No Section 12 license may make sales on Christmas Day (or the day following when Christmas Day is on a Sunday), or Memorial Day, between 2 a.m. – 12 noon, except in those cities and towns which have adopted an 11 a.m. opening time (Ch. 138, s33B).
- B. All other counties: No Section 12 license may make sales on Christmas Day (or the day following when Christmas Day is on a Sunday), or Memorial Day, between 1 a.m. – 12 noon, except in those cities and towns which have adopted an 11 a.m. opening time (Ch. 138, s33B).

PACKAGE STORES: On Thanksgiving, Christmas Day and Memorial Day, package stores **MAY NOT** sell or deliver alcoholic beverages. The sale of alcoholic beverages on all other legal holidays is allowed unless the holiday falls on a Sunday.

Package stores may, subject to the approval of the local licensing authority, sell alcoholic beverages on each Sunday during the “Holiday Season.” The “Holiday Season” is defined by law to be the Sunday immediately preceding Thanksgiving Day through and including the Sunday immediately preceding New Year’s Day.

PLEDGE OF LICENSE

The last paragraph of Section 23 of Chapter 138 authorizes Section 12 and Section 15 licensees to pledge their licenses for a loan subject to approval of local authorities and the ABCC.

If a seller or a third party wishes to retain an interest or a “perfected pledge” in the liquor license, the following requirements must be met:

1. The taxpayer must comply with the Uniform Commercial Code (UCC) filing requirements as set forth in Massachusetts General Laws;
2. The pledge must be approved at the local licensing authority;
3. The pledge must be approved at the Alcoholic Beverages Control Commission.

IN instances in which a pledge has been perfected, evidence that these requirements have been met may be requested by the Department of Revenue.

CHURCH, SCHOOL, HOSPITAL NOTIFICATION

An applicant for a new Section 12 (on-premise), Section 15 (off-premise) and Section 30 A (pharmacist) license or for the change of location or for an alteration of premises (except an extension of licensed premises that does not exceed 50 feet) must notify by registered mail any church, school or hospital located within 500 feet of its premises of its intentions (Ch. 138, s15A).

An affidavit of the applicant mailing such notice and an attested copy of the notice mailed shall be filed with local licensing authority. A certified copy of that affidavit shall be considered prima facie evidence that such notice has been mailed. If a church, school or hospital files a written complaint that action on the license was taken without them receiving certified written notice and such a complaint is upheld, the licensing authority may cancel the license.

THE 500-FOOT DISTANCE SHALL BE MEASURED IN A STRAIGHT LINE FROM THE NEAREST POINT OF THE CHURCH, SCHOOL OR HOSPITAL TO THE NEAREST POINT OF THE LICENSED PREMISES (204 CMR 2.11).

Applicants for an innholder's (Section 12) and parts of buildings located 10 or more floors above street level are exempt from this law.

A church is defined by Ch. 138, s 16C as "a church or synagogue building dedicated to divine worship and in regular use for that purpose, but not a chapel occupying a minor portion of a building primarily devoted to other uses." That same law defines school as "an elementary or secondary school, public, or private, giving not less than the minimum instruction and training required by chapter seventy-one to children of compulsory school age."

The governing bodies of these institutions have the right to file written objections with the licensing authorities concerning the license. **In all cases, whether the license is protested or not, the licensing authority must determine in writing after the hearing that the premises are not detrimental to the educational and spiritual activities of such school or church if they are approving the application.**

THE QUOTA SYSTEM

Massachusetts's law (Ch. 138, s17) places a quota restriction on the number on the number of on-premise and off premise licenses a city or town can issue. That quota is based on the population from the preceding federal census.

On-Premise: Each city or town may grant one on-premise (Section 12) all alcoholic license for each 1,000 population (or fraction thereof) with a minimum of 14. An additional all-alcoholic license may be granted for each population unit of 10,000 (or fraction thereof) over the first 25,000. One wine and malt license may be granted for each 5,000 population (or fraction thereof) with a minimum of 5.

Off-Premise: Each city or town may issue one off-premise (Section 15) all-alcoholic license for each 5,000 population (or fraction thereof) with a minimum of 2 and one wine and malt license for each 5,000 population (or fraction thereof) with a minimum of 5.

Veteran's Club License: The local licensing authority may grant a license, outside the quota system, subject to state approval, to any corporation whose members are war veterans which owns, hires or leases a building, or space in a building, for the use and accommodation of a post of any war veterans' organization incorporated by the Congress of the United States, to sell to members of that post only, and, subject to local licensing authorities, to guests introduced by such members and to no others.

Seasonal Licenses: On Premise licenses can be issued effective from April 1 to January 15 or any portion thereof and to the number that the local licensing authority deems to be in the public interest.

Off-premises seasonal licenses may be issued based on an estimate provided by cities and towns by March 1 of the temporary increased resident population as of the following July 10. That estimate must be submitted to the Commission prior to April 1. Off-premise seasonal licenses are issued based on that estimate at the rate of one license for each 5,000 population (or fraction thereof) and are effective from April 1 to January 15 or any portion thereof.

Franklin and Berkshire counties may issue winter seasonal licenses and estimate by October 15 the temporary increased resident population as of the following February 10. Such licenses are effective from December 1 to April 1.

CITIZENSHIP AND RESIDENCY REQUIREMENTS

Citizenship and residency requirements are found in Ch. 138, s15 and s 26 and 204 CMR 2.01 (1). Below is summary of those requirements.

	Citizens	Residents
<hr/> Section 12 (On-Premise)		
Individual	YES	NO
Partnership	ALL	NO
Corporation	Majority Non Aliens	NO
Manager	YES	NO
<hr/> Section 15 (Off-Premise)		
Individual	YES	YES
Partnership	ALL	ALL
Corporation	All Directors	Majority of Directors
Manger	YES	NO

MINIMUM NUMBER OF DIRECTORS

Requirements for the minimum number of directors required for any corporation are established in M.G.L. Ch. 15B. Below is a summary of these requirements:

<u>Shareholders</u>	<u>Minimum Number of Directors Required</u>
1	1
2	2
3	3
4	3+

**IMPORTANT INFORMATION FOR ALL PARTIES
IN A LIQUOR LICENSE TRANSACTION**

1. Grant of an application by the Local Board is only the first step in the license process. The second step is approval by the ABCC. If the ABCC approves, the final step is issuance of the license by the Local Board.
2. Until and unless a license is issued the new owner may not take part in the operation of the premises and the old owner, if any, is still liable for the operation of the premises.
3. Before transferring a liquor license, the Department of Revenue (DOR) will research the tax history of both the buyer and the seller for all types of taxes, including sales, meals, withholding, corporate excise, room occupancy and personal income taxes, if applicable.

Please do not submit any documentation or information to DOR until you have applied to the ABCC and have been contacted by and employee of the Department of Revenue.

The ABCC will not approve the license until DOR signs off. It is up to the parties, not the ABCC, to resolve tax questions.

4. The ABCC will also have an investigator contact the applicant to ask certain information about the people involved and the financing. It is important that the parties respond promptly to investigator's inquiries. Failure to do so will result in denial of the application.
5. Operation by the applicant before final approval of the transfer can have serious ramifications for both the buyer and the sellers. Operation without a license can be considered evidence of applicant's unfitness for a license. It can also lead to revocation of the existing license. In certain circumstances, it opens both the buyer and the seller to possible civil and criminal liability.

Seller Date

Buyer Date